

DURHAM CITY COUNCIL WORK SESSION
Thursday, February 8, 2018 @ 1:00 p.m.
2nd Floor Committee Room – 101 City Hall Plaza

Present: Mayor Steve Schewel, Mayor Pro Tempore Jillian Johnson and Council Members Vernetta Alston, Javiera Caballero, DeDreana Freeman and Mark-Anthony Middleton. Absent: Council Member Charlie Reece.

Also present: City Manager Tom Bonfield, City Attorney Patrick Baker and Acting City Clerk Diana Schreiber.

Mayor Schewel called the meeting to order and welcomed all in attendance.

Mayor Schewel explained that Council Member Reece was ill and would like an excused absence.

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to extend an excused absence to Council Member Reece; the motion was approved unanimously.

Mayor Schewel asked if there were any announcements from the Council Members. No announcements were made.

Mayor Schewel asked for priority items from the City Manager, City Attorney and City Clerk.

City Manager Bonfield stated he had priority items by stating that there were two Supplemental Items with presentations added to the agenda:

- Item #13, Contract with Morris & McDaniel, Inc. to Conduct Promotional Testing, Assessment Services and Job Task Analysis;
- Item #14, Amendment to City Noise Ordinance, Section 26-23; and
- Two items had presentations that would last 15-20 minutes each.

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Freeman, to approve the City Manager's Priority Items; the motion was approved unanimously.

There were no priority items from the City Attorney and City Clerk.

Mayor Schewel announced each item on the printed agenda; and the following items were pulled for comment, further discussion and/or action by Council:

- Item #5, Watershed Protection Plan and Authorization to Participate in Watershed Protection Projects (with it presentation);

- Item #9, South Ellerbe Stormwater Restoration Building Demolition Services Contract (SP-2017-01);
- Item #13, Contract with Morris & McDaniel, Inc. to Conduct Promotional Testing, Assessment Services and Job Task Analysis;
- Item #14, Amendment to City Noise Ordinance Section 26-23

City Manager Bonfield suggested beginning discussion with non-presentation items; therefore, Item 9, South Ellerbe Stormwater Restoration Building Demolition Services Contract (SP-2017-01) was addressed next.

**SUBJECT: SOUTH ELLERBE STORMWATER RESTORATION BUILDING
DEMOLITION SERVICES CONTRACT (SP-2017-01) – ITEM 9**

Sandy Wilbur, Public Works Department, Stormwater & GIS Services Division, spoke to the 90-day demolition process; and construction of actual facility adjacent to the wetland would start later in 2019; explained the longest period of time would be required for permitting; however, if permitting progressed efficiently, the project could begin earlier;

Mayor Schewel inquired about the presence of the foundations; and asked what it would look like.

Ms. Wilbur responded that the foundation area would be fenced off around the foundation and the facility during the interim time period; and explained that during the actual construction, there would be a lot of excavation and that the foundation and dirt would be removed at the same time. She explained that the reason the building was being completed early was due to vandalism.

**SUBJECT: CONTRACT WITH MORRIS & MCDANIEL, INC. TO CONDUCT
PROMOTIONAL TESTING, ASSESSMENT SERVICES AND JOB TASK
ANALYSIS – ITEM 13**

Kevin Cates, Assistant Chief, Police Department, responded to Mayor Pro Tempore Johnson's questions about the contractor's process in regard to testing and assessment.

Assistant Chief Cates explained that investigator and senior patrol officer job titles had been reclassified as new ranks; due to the reclassification, the contractor would be coordinating the assessment center, written test, and personal history portfolio to determine promotions to the two new ranks.

Assistant Chief Cates added that the reclassification process was conducted approximately every two years.

**SUBJECT: AMENDMENT TO THE CITY'S NOISE ORDINANCE, SECTION 26-23 –
ITEM 14**

Mayor Pro Tempore Johnson referenced the noise concerns from Durham Central Park and noted that the ordinance would be applied to other areas of the city; was concerned about the narrowly tailored change to the policy due to the issue coming up again before Council; explained that she had downloaded a decibel reader on her phone and measured decibels emanating from various sources; and she discovered that being in Downtown, she experienced more than 60 decibels of noise; and urged the consideration of more and broader changes to the policy instead of the exemption for Central Park.

City Attorney Baker responded that he and Council Member Reece had had a robust discussion on the subject of decibel levels; spoke to the specific and broader issues within the attorney's perspective; stated that decibel readings had not been reviewed under his administration since 1997; stated he had been told that decibel readings had exceeded the limits all the time in a number of areas around the city and this topic may be one that Council would like to take a broader look at; noted the item before Council was a pared down version of a back and forth between Council Member Reece and himself; and decided to move this version forward while keeping it simple; Council was encouraged to pass this version with the idea of taking a broader look later at everything else or hold on to this and do it all at one time in the future, which was a policy decision for Council.

Mayor Pro Tempore Johnson asked what would be the process to review the noise ordinance.

Attorney Baker responded that the noise ordinance had been tweaked over the past twenty years; but he could envision some sort of stakeholder meeting; noted the draft he had included city properties because it would be hard for the city to impose a variance on private property for a private action; a community committee could be formed; and was not certain if the Environmental Affairs Board would address the issue.

Mayor Pro Tempore Johnson felt comfortable about passing the version before Council with a plan in place to address the issue more broadly and favored waiting until her colleague, Council Member Reece, could be back for his comments.

Council Member Alston concurred with the narrow tailoring of the exception of the ordinance; and echoed Mayor Pro Tempore Johnson's concerns about the exception and the need to look more broadly.

Council Member Middleton echoed Mayor Pro Tempore Johnson's concerns; stated the version was a response to help a specific group of constituents; and was supportive of the item.

Mayor Schewel stated the item would be placed on the General Business Agenda at the upcoming Council meeting to allow Council Member Reece to provide his input; and recommended Council Member Caballero to take the noise ordinance to the Environmental Affairs Board for their input.

SUBJECT: WATERSHED PROTECTION PLAN AND AUTHORIZATION TO PARTICIPATE IN WATERSHED PROTECTION PROJECTS – ITEM 5

Sydney Miller, Water Resources Planning Manager in the Department of Water Management; made the staff report with PowerPoint titled, *City of Durham Watershed Protection Plan* (approved by Council in 2017) and *Watershed Protection Projects*; provided the presentation outline that included the purpose of the Watershed Protection Plan, water supply/source protection funding, Lake Michie and Little River Reservoir focus, Upper Neuse Clean Water Initiative, Watershed Protection Plan and the Proposed Watershed Protection Projects along with the following discussion points:

- Explained the rationale behind the importance of protecting the water supply by creating barriers
- Displayed maps of the watershed
- Water supply/source protection buffer funding
- Maps of Lake Michie Property Acquisition
- Goal #1 of the Watershed Protection Plan: Target/Leverage one cent per Tier Funds
- Goal #2 of Watershed Protection Plan: Define formal assessment process
- Upper Neuse Clean Water Initiative (UNCWI)
- Durham Water Supply Watershed GIS Model
- Durham Drinking Water Source Area, Priority Areas as a GIS Model of Lake Michie and Little River Reservoir
- GIS Model Goals and Objectives: Protect water sources and conveyances, conserve upland areas, promote water infiltration and retention, protect vulnerable areas, and protect land closest to drinking water sources
- Model Technical Advisory Team: Guided GIS model development combined with staff from Department of Water Management, Public Works Department/Stormwater and GIS Services Division and Durham County Open Space
- Stakeholder Advisory Group: provide input on weighting goals/objectives with staff from Durham City and County, City of Raleigh, Triangle J Council of Governments and various land conservation organizations
- Example (1 goal of 5 goals in model) with goal/goal weight/objective/objective weight and criteria
- Land outside of Reservoir Buffer Purchases
- Land Conservation Project Consideration Process thru Cities of Durham and Raleigh
- Current Status of Watershed Protection Plan and coordination with Triangle Land Conservancy Watershed Protection Plan

- Conservation Project #1: Maps of the Watershed Location of 2 Byerly Parcels in Orange County, Little River Watershed - conservation easement, nearby protection areas and nearby existing Open Space
- Conservation Project #2: Eno River Association Watershed Protection Project consisting of 4 Walker Family Properties in Orange County, Little River Reservoir Watershed, North Fork Little River - conservation easement, watershed location and proximity of parcels to nearby open space
- NC Source Water Collaborative Award: statewide partnership to protect drinking water; Surface Water Planning, Source Water Protection Award for 2018 for Watershed Protection Plan for City of Durham's Water Supplies and Nominees were City of Durham Water Management, Triangle Land Conservancy

Mayor Pro Tempore Johnson's voiced the following questions:

What was the meaning of 'model score' and its numerical limits?

Model score pertained to the GIS Modeling and how a parcel ranked among other parcels that offered water supply/watershed protection, if property scored greater than the mean, then the property was worth considering for protection. Model showed properties that were more likely than not to protect the city's water supply/shed/quality.

Did city make grants to non-profits to purchase properties or would city be direct party to purchase?

The city owned nothing in the two proposals; with Council's approval, monies were given to the Conservation Trust for North Carolina who would disburse the funds to the land conservation organizations and the organizations would hold the titles.

Water Management Director Don Greeley added the advantages of the program were to allow the conservation non-profits to oversee the conservation of the properties; so the city did not need additional resources appropriated to supply the oversight.

Mayor Schewel deferred to Council Member Caballero as the liaison to the Upper Neuse River Association Board to respond to his inquiry.

Council Member Caballero responded that the first staff briefing was held February 7, 2018.

Mayor Schewel referenced the city's purchase of a large parcel in conjunction with funding from Raleigh and Durham County, and asked if that was a different program.

Mr. Greeley responded that the funding source of a penny per tier, instituted in 2011, allowed the city, as projects came forward, to use the funds on an *ad hoc* basis; the property would eventually be used as a park.

Council Member Freeman highlighted the Triangle Land Conservancy's added benefit of teaching students of how to track water quality.

Members of the Triangle Land Conservancy, the Eno River Association and AmeriCorps stood, introduced themselves and were thanked by Council.

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT,
COMPACT NEIGHBORHOOD INTERIM AFFORDABLE HOUSING
BONUSES – ITEM 12**

Patrick Young, Director of City-County Planning, and Hannah Jacobsen, Senior Planner; to present the interim strategy to use enhanced density bonuses to incent affordable housing production in planned light rail transit station areas aka compact design districts; and presented a PowerPoint titled, Interim Affordable Housing Regulatory Bonuses in the Compact Neighborhood tier, TC1600005.

Mr. Young introduced the background of the item by referencing 2015 city and county's Affordable Housing goal adopted by resolution that 15% of all housing units within a half mile in transit areas would be made available for those under 60% AMI; in 2016, plan was adopted through the Comprehensive Plan and was included in the city's Affordable Housing Plan, providing a regulatory strategy within the confines of law to achieve the goal; and elaborated on the new incentive structure that enveloped density bonuses that attempted to provide market based developers to contribute to this community problem of affordable housing.

Ms. Jacobsen spoke to the interim affordable housing bonus objectives, defined the interim affordable housing bonus and explained the bonuses could be used in the compact neighborhood tier and existing zoning allowed for multi-family housing; displayed maps indicating where the bonuses would be applicable; mentioned that for a developer to receive the bonuses, the projects would need to meet affordability and design requirements.

Council Member Freeman asked if staff, in specifically CG areas, was looking at affordability in specific areas or city wide and asked about leveling the playing field in areas of heavy density or heavy affordability.

Ms. Jacobsen stated that affordability was of interest city-wide along the light rail corridor in compact neighborhoods and that the bonuses would be one strategy to combine with other strategies, applicable to new, multi-family projects.

Mr. Young interjected that the presentation was intended on addressing Council Member Freeman's concern about putting bonus structure in place before putting in compact design zoning; and recognized the economics of the areas would affect the effectiveness of the bonuses.

Ms. Jacobsen continued her presentation with emphasis on affordability and design requirements by elaborating that at least 15% of total units would be designated affordable and would have a 30 year affordability period; clarified two steps: Step 1) Elected Board evaluates financial contribution toward development proposals where households earn 60% AMI or less and Step 2) If Elected Board opts not to participate, the affordability requirement becomes an average of 70% of AMI or less, with a by-right approval.

City Manager Bonfield asked for the estimated range of the equity gap along station areas.

Mr. Young referenced the slide that differentiated between market and affordable rents and spoke to Alston Avenue compared to market rates along 9th Street and added that there would be at least a \$30,000 per unit equity gap.

City Manager Bonfield stated that if Council wanted to do this and if proposals came forward, it would be accompanied by a request for \$33,000 to \$44,000 per unit subsidy for every affordable unit.

Council Member Freeman requested clarification on using the average of 70%.

Mr. Young spoke to beneficiaries in the range of 60 to 80% AMI to qualify for units as long as it averaged out to 70%; when setting a specific number such as 60%, there would be a narrower range of beneficiaries. He then requested Council provide direction regarding the underlying criteria.

Council Member Freeman wanted the average built up in station stops that do not already have affordability.

Mayor Schewel responded there was not a current mechanism to change the underlying economics.

Council Member Freeman suggested we needed to be willing to partner prior to giving away all the by-right away.

Mayor Schewel responded that nothing was being given away by-right except when a developer was coming in to build affordable units; confirmed that the criteria needed to be figured out; opined that no one was changing the underlying zoning at this time but that there would be changes at the stations later on; explained that the item before Council was to allow developers to come in, by-right, and provide affordable units at the prescribed density and without coming in for a rezoning; and stated staff would be coming back to Council with a later action that would deal with the underlying zoning.

Mayor Pro Tempore Johnson questioned what would be the maximum income allowed and would it be 80% AMI.

Ms. Jacobsen responded that anything over 80% would not qualify as an affordable housing dwelling unit; and confirmed this figure was an average of 70% of the 15% affordable units; and elaborated on basic design requirements and if the project took advantage of the design elements, then the developer could take advantage of the bonuses.

Design Requirements:

- Building is placed on the site to create a sense of human/pedestrian oriented scale
- Visual interest is created through use of windows and doors
- Primary entrance engages the street
- Pedestrian activity is encouraged with accessible sidewalks
- Pedestrian experience is enhanced through streetscape amenities

Bonuses:

- 75 units/acre maximum density
- 90 feet maximum building height
- 50 feet maximum building height if adjacent to single family neighborhood
- Eliminates minimum parking requirement
- Administrative approval

Ms. Jacobsen explained permitted and bonus densities, height comparisons and the current zoning allowed for a range of heights in conjunction with the proposed bonus. Ms. Jacobsen detailed how the change could affect development near residential properties by comparing density and heights already allowed under current zoning to what would be possible with the affordable housing bonuses. Noting the limitations, Ms. Jacobsen explained the impact of incentives of which may not be seen in the near-term without additional public participation or a major shift in construction costs. Ms. Jacobsen confirmed the variables that were prevalent in Durham: the existing revenue gap, economic conditions (price of land, market rents, etc.) varied across the compact neighborhoods and few development-ready sites.

Ms. Jacobsen presented scenarios for income and housing costs, along with a chart that compared rental housing costs at Patterson Place, South Square, Erwin, Ninth Street, Leigh Village and Alston.

Mayor Schewel inquired about the density limitations on the apartment building going up in Downtown across from the American Tobacco complex.

City Manager Bonfield confirmed there was not a density limitation on the complex.

Staff discussed the maximum heights comparing stick built with steel frame construction; and noted that when a building was under the 50 foot maximum, density was achieved by constructing smaller units.

Mr. Young recognized it would take an array of tools to address affordable housing; there were significant limitations to the bonus policy, due to code limitations going from stick to steel construction, but overall, Council would be sending a signal to developers about the important community goal.

Mr. Young spoke to potential consequences of the bonus program that could be associated with the risks of setting the density limits too low; wanted to ensure that the policy was careful without unduly lowering density with the side effect of low density, high cost development as was common in Chapel Hill, and therefore, would not be bringing forward densities that would create such outcomes; and explained that the policy intended to avoid residential being crowded out at transit hubs as well as creating pressures at nearby residential neighborhoods.

Mr. Young spoke to the next steps for the long-term strategy and spoke to partnering with stakeholders in the Department of Community Development and designing districts customized to each location with measures to address the financing of the equity gap.

Mayor Pro Tempore Johnson referenced the last slide titled, 'Next Steps for a Long Term Strategy', and asked what was the line item labelled 'future market demand' what was the measure based on.

Mr. Young replied this was a conceptual slide that attempted to show that the city needed to find a density at each station area that allowed for minimum transit supported densities combined with one that was not so generous to dissuade developers from seeking an affordable housing incentive program; and continued to explain the graphic was attempting to show that this would differ in each station area based on current and future demand. Staff planned to conduct market analyses of each area with the strategy being briefed to Council in the future.

Mayor Pro Tempore Johnson asked if the current based density was below the minimum density needed to support the goals; and asked about the minimum needed to support the goals.

Mr. Young responded 'no' and added that the current base line density was fairly high at an average density of 12 units/acre; and estimated the density that was needed to support the goals was fifteen units, at the lower end.

Council Member Middleton requested additional information on the enhanced bonus going up.

Mr. Young replied that that was a rough estimate and it would vary by district; and gave an example of the Fayette Place site (RSM- Residential, Suburban Multi-Family) where the ratio would be based on the specific district.

Mr. Young explained that in RSM, the density was expanding from 8-12 unit range to up to 75 units.

Council Member Middleton asked if there was a projected date of having a long-term affordable housing strategy in place.

Mayor Schewel responded that Planning staff would plan station area by station area; in the meantime, there would be a broader housing affordability plan that would be brought back to Council at the Special Meeting scheduled for March 8th at 10 a.m.

City Manager Bonfield reminded Council that they had already adopted an affordable housing strategy and the entirety of the strategy would be presented to Council on March 8th along with the discussion of homeless services' current and future strategies; and if Council wanted to talk about additional strategy that would be a good opportunity to do so.

Mayor Schewel referenced Page 4, Economic Conditions, proposed a different income level threshold where there was higher demand, use the lower AMI of 60%, and where there was less demand, use the AMI of 70%; asked staff to consider an answer to this issue; and stated he continued leaning toward the 60% goal.

Mr. Young responded that if staff decided on going with the 60% and then monitoring for one year, there was nothing to preclude a developer coming to Council to request a package in affordable housing to use the regulatory piece, by-right.

City Manager Bonfield voiced a complication that within the adopted Affordable Housing strategy, for every 60% unit that the city funded, that was coming from the same pot of money used to fund the 50% units and explained the 70% option did not anticipate a subsidy from the city.

Mr. Young stated he had inadvertently interchanged the percentages and deferred to Karen Lado of the Department of Community Development for clarification.

Karen Lado, Assistant Director of Strategy, addressed the Mayor's proposal and the various thresholds; restated the Mayor's proposal that instead of having a 70% threshold, there would be a 60% threshold by-right, no negotiation; for example, a developer would come in and provide 15% affordable units at the average of 60% AMI with 80% being the cap, with other requirements of the bonus being met, then under these circumstances, the developer could take advantage of the policy.

Ms. Lado stated that as a general rule, density bonuses did not work because they typically allowed the city to get density above what the market already wanted; spoke to the challenge being that the city was attempting to incorporate affordable housing into the most expensive housing stock; and explained that on rental units, the gap calculation emerged when comparing construction costs, and if a developer capitalized the lost rents, the question would be, did subsidy offset the lost revenues.

Ms. Lado recommended to staff that if a threshold was established, that it be a by-right threshold not a negotiated threshold; stated the city was likely to see little to no uptake on any density bonuses put out there on an interim basis because it applied to areas where multi-family was already allowed.

Ms. Lado continued her remarks about the need for additional market analysis about the calibration of bonuses per site; and addressing the Manager's point, emphasized that staff should be cautious about employing any scenario that said the city was going to put actual cash housing dollars into rental units above 60% AMI.

Mayor Schewel referenced Ordinance 661-D and requested clarification on the text regarding single-family or duplex development; and Page 4, Example #3 of the ordinance, asked how did the example relate to the 75 units per acre and what happened to families who were eligible for affordable housing units whose income rose above the rent threshold.

Planning staff responded that due to the reorganizing of the text, various portions had been rearranged including the Affordable Housing Density Bonus and indicated the items highlighted in grey were substantive changes; and explained that Example #3 was related to the Urban Tier, not the Compact Tier.

Ms. Lado explained how families would be impacted by the salary caps by stating that family income was certified once annually; for the duration of the year, the family would be eligible for housing in the affordable unit; however, upon reapplication for income eligibility and with an increase in take-home salary above the allowed limits, the family would not be eligible to remain in the affordable housing unit at the end of the rental year.

Mayor Schewel summarized the findings that indicated there was doubt in the short term, under current market conditions, that the bonus would incentivize very much; there was skepticism due to the large equity gap - the equity gap would have to be filled by whatever the market rate could produce to create savings; voiced support for a process with simplicity; and mentioned that if the 60% goal was not feasible then Council should revisit the percentage around the transit station areas.

Council Member Freeman acknowledged her colleagues' remarks; noted the average of 70% was more appealing to local developers; and by saying Council was willing to give a by-right of 70% at, for example, Patterson Place, would send a message that the city was trying to meet developers half-way.

City Manager Bonfield reminded Council that there would be a public hearing regarding the topic in ten days.

Council Member Middleton stated that moving forward, there would have to be serious conversations defining affordability and turning it into policy.

Mayor Schewel spoke to the need to spread affordability around, even into expensive areas and near employment centers, although construction like this was costly to implement.

Mr. Young commented that because the item was returning before Council at the next business meeting, he requested Council's feedback by asking if 60%, as a default, should be included in the draft and Council could then modify the percentage later.

It was the consensus of Council to include 60% as the default in the draft text amendment.

Settling the Agenda – February 19, 2018 City Council Meeting

City Manager Bonfield referenced the following items for the February 19, 2018 City Council Meeting agenda: Items 1 through 9 and 13; General Business Agenda Item 14, and Public Hearings Items 10-12.

MOTION by Council Member Middleton, seconded by Council Member Reece, to settle the agenda for the February 19, 2018 City Council Meeting as stated by City Manager Bonfield was approved at 4:03 p.m. by the following vote: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Absent: None.

There being no further business to come before the Council, the meeting was adjourned at 4:03 p.m.

Diana Schreiber, CMC, NCCMC
Acting City Clerk